Performers’ Rights and Contracts: Case-Study of Classical Ballet Dancers in Australia

Seemantani Sharma, PHD

This paper examines the role of contracts in determining the economic rights of classical ballet dancers, using Australia as a case study. Studies indicate that dancers in Australia do not earn a living wage from their dance and often have to supplement their income from other sources. The problem of low wages is aggravated by dancers’ shorter career spans as most dancers are unable to perform at their peak beyond mid-30’s and are forced to retire. The cumulative effect of poor pay and shorter career spans is that many dancers struggle to support themselves financially once their dance career comes to an end. In certain cases, dancers have no option but to branch out to other professions which requires additional skills and qualifications.

Several jurisdictions such as the US, UK, Canada and India have equitable remuneration schemes for performers (such as statutory royalties) under their copyright law. There are no such schemes for non-sound performers (including dancers) under the Australian copyright law. Australian legislators and policymakers have been reluctant to grant equitable remuneration to performers on the ground that majority of the performers receive royalties (a form of equitable remuneration) anyway under contractual arrangements. There is limited research on the interaction between contracts and the substantive rights of performers.

In light of this, this paper takes Australian classical ballet dancers as a case-study to evaluate the nature of remuneration payable to dancers under the different types of contracts signed by them. It specifically examines royalty sharing provisions under collectively bargained agreements, industry-wide employment agreements and special agreements issued by the peak bodies of performing arts. If available, the researcher will also supplement this analysis with preliminary data on the remuneration model based on which classical ballet dancers are paid in Australia. This paper is part of a larger doctoral research project where the researcher is examining whether a performers’ rights regime could mitigate some of the economic concerns of dancers.